

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Clifford A. Lowe, et al.	)	
	)	CASE NO. 1:19-CV-748-JG
Plaintiffs	)	
v.	)	JUDGE JAMES S. GWIN
	)	
ShieldMark, Inc., et al.	)	
	)	
Defendants	)	

**NOTICE OF APPEAL  
TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT  
FROM FINAL ORDERS OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

NOTICE IS HEREBY GIVEN that **PLAINTIFFS** in the above-captioned case, **CLIFFORD A. LOWE (“LOWE”)** and **INSITE SOLUTIONS, LLC**, n/k/a **SPOTA LLC (“plaintiff INSITE”)**, the same being all plaintiffs in the action, hereby appeal to the **UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT** from the final and appealable orders entered in this action by the District Court for the Northern District of Ohio on the respective dates indicated below, adjudicating all claims and counterclaims and the rights and liabilities of all parties as of March 16, 2023:

- Opinion & Order (Doc. 219), dated **MARCH 16, 2023**, Resolving Doc. Nos. 213, 215, 216 & 217, **granting defendant, Shieldmark, Inc.,<sup>1</sup> summary judgment as to plaintiff INSITE’S claim for false advertising** under the Lanham Act 42

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<sup>1</sup> Although the Order & Opinion (Doc. 219 at Page ID #6984) states summary judgment is granted to “defendants,” the false advertising claim was brought by plaintiff INSITE against defendant ShieldMark, Inc., and not all defendants (Doc. 127, PageID ##5267-70).

(a)(1)(B) and **denying the motion of plaintiff INSITE for summary judgment on that claim;**

- Opinion & Order (Doc. 191, PageID #6300), Resolving Doc. Nos. 148 & 169, dated August 23, 2022, **dismissing [patent infringement claim of plaintiffs LOWE and INSITE]<sup>2</sup> for lack of subject matter jurisdiction with prejudice;**
- Opinion & Order (Doc. 191, PageID #6300), Resolving Doc. Nos. 148 & 169, dated August 23, 2022, **“in the alternative” granting “defendants’ patent invalidity summary judgment motion;”** and
- Opinion & Order (Doc. 152), Resolving Doc. 145, dated June 29, 2022, denying plaintiffs’ motion for judicial recusal pursuant to 28 U.S.C. § 144, 28 U.S.C. § 455(a) and 28 U.S.C. § 455(b)(1).

Dated: April 14, 2023

Respectfully submitted,

/s/ Ray L. Weber

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<sup>2</sup> While the original Opinion & Order (Doc. 191, PageID #6300) states “The Court dismisses this action,” the Federal Circuit has interpreted the dismissal with prejudice to be the dismissal of plaintiffs’ patent claim. (Doc. 212, PageID #6725).

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing

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has been filed electronically on April 14, 2023, with the United States District Court for the Northern District of Ohio. Notice of the filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Ray L. Weber  
Ray L. Weber